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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Joint Application of Southern California Edison Company and San Diego Gas & Electric Company for the 2005 Nuclear Decommissioning Cost Triennial Proceeding to Set Contribution Levels for the Companies' Nuclear Decommissioning Trust funds and Address Other Related Decommissioning Issues.	A.05-11-008 (Filed November 10, 2005)

JOINT REPLY BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E)

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Dated: **July 14, 2006**

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I.

INTRODUCTION

Pursuant to the schedule established by the assigned Administrative Law Judge at the May 24, 2006 and May 25, 2006 hearings in this proceeding, SCE and SDG&E (together, the "Utilities") submit this Joint Reply Brief in response to certain issues raised in the Opening Brief of Scott L. Fielder, dated June 22, 2006.

II.

STANDARD OF REVIEW FOR SONGS 1 DECOMMISSIONING WORK

In his Opening Brief, intervenor Scott L. Fielder ("Fielder") states that "the applicant utilities alone bear the burden of proof to establish that the rates they have requested are just and reasonable and that the related rate-making mechanisms are fair."[1] Fielder further states that:

[1] Fielder Opening Brief, pp. 2-3.

"It is also the obligation of PG&E, Edison, and SDG&E to demonstrate that their requests are in compliance with prior laws and decisions."[2]

The Utilities do not disagree that the standard articulated by Fielder is the traditional reasonableness standard applicable to most ratesetting cases. However, the Utilities would like to ensure that it is clear that, with respect to SONGS 1 decommissioning work completed during each NDCTP period, a different reasonableness standard has been adopted by the Commission and continues to apply today.

For SONGS 1 decommissioning work, the Utilities are not required, as Fielder claims, to bear the burden of proof to establish that the costs incurred during the January 1, 2002 through June 30, 2005 triennial period were "just and reasonable" or "fair." The applicable standard of review for SONGS 1 decommissioning work, adopted in D.99-06-007 and confirmed in D.03-10-015, is as follows:

> A comparison of completed SONGS 1 Decommissioning Work to date, and the costs incurred, to the previously submitted SONGS 1 Decommissioning Cost Estimate. If the scope of SONGS 1 Decommissioning Work completed and costs incurred to date are bounded by the most recently approved SONGS 1 Decommissioning Cost Estimate, the Utilities' conduct will be presumed reasonable. Any entity claiming the Utilities acted unreasonably would, therefore, bear the burden of proving the Utilities acted unreasonably. The Utilities will be responsible for proving that material variances from the most recently approved SONGS 1 Decommissioning Cost Estimate are reasonable.[3]

This reasonableness standard for SONGS 1 decommissioning work was agreed to among all active parties in the all-active party Settlement Agreement in the 1998 NDCTP, which was adopted by the Commission in D.99-06-007. In the 1998 NDCTP Settlement Agreement, the settling parties agreed to adopt the above-cited different reasonableness standard for SONGS 1

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[2] *Id*.

[3] D.99-06-007, *mimeo*, p. 7, Settlement Agreement, Section 4.2.2.2c.

decommissioning costs because "traditional reasonableness reviews are for major rate case additions and, in this case, no addition is involved."[4]

This unique reasonableness standard for SONGS 1 decommissioning work completed, that was first established and adopted in D.99-06-007, was re-confirmed in the 2002 NDCTP final decision, D.03-10-015:

> In D.99-06-007, the Commission approved a settlement establishing a presumption that the utilities' conduct is reasonable in performing SONGS 1 decommissioning work if the scope of the work completed and costs incurred are bounded by the most recently approved SONGS 1 decommissioning cost estimate.[5]

Under this procedure outlined in D.99-06-007 and confirmed in D.03-10-015, the Commission is to review SONGS 1 Decommissioning Completed Work in three-year intervals. If costs incurred for the scope of work completed were within the cost estimate for that work scope most recently approved by the Commission, those costs and the associated utility conduct would be presumed reasonable.[6]

In compliance with this established procedure, the Utilities demonstrated in Exhibit 1, that the $298 million cost of the SONGS 1 decommissioning work completed as of June 30, 2005 was within the $317 million for that work scope in the SONGS 1 decommissioning cost estimate that the Commission approved in D.03-10-015.[7] Therefore, the SONGS 1 decommissioning work completed in the 2002 through 2005 triennial period "are bounded by the most recently approved SONGS 1 Decommissioning Cost Estimate," and the Utilities' conduct should be presumed and found reasonable.

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4 Id., p. 7.
5 Decision D.03-10-015, Findings of Fact #13.
6 D. 99-06-007, mimeo, p.7.
7 Ex. 1 (SCE-1, Testimony on SONGS 1 Nuclear Decommissioning Work Completed and Remaining Scope of Work, pp. 10-11).

III.

SONGS 1 REMAINING WORK, SONGS 2&3, AND PALO VERDE DECOMMISSIONING COST ESTIMATES

As stated in the Joint Statement of SCE, SDG&E, Division of Ratepayer Advocates ("DRA"), Federal Executive Agencies ("FEA"), and The Utility Reform Network ("TURN") in Support of Settlement Agreement, filed June 23, 2006 (the "Joint Statement"), and the Update by Southern California Edison Company and San Diego Gas & Electric Company to Settlement Agreement ("Update to Settlement Agreement"), filed concurrently herewith, the Settling Parties have asked the Commission to approve, in its entirety, the Settlement Agreement.

That Settlement Agreement asks the Commission to authorize SCE and SDG&E to recover the annual Revenue Requirement for contributions to the SONGS 2&3 and Palo Verde Decommissioning Trust Funds (for SCE) and the SONGS 2&3 Decommissioning Trust Funds (for SDG&E) set forth in the Updated Appendices B and C (attached as Attachment 1 and 2 to the Update to Settlement Agreement, filed concurrently herewith).[8]

The Settlement Agreement also asks the Commission to adopt as reasonable the updated cost estimates for SONGS 1 Remaining Work, SONGS 2&3 and Palo Verde as set forth in the 2005 NDCTP Joint Application (but with the revision to the Palo Verde decommissioning cost estimate to reflect a reduction in the contingency factor for non-burial components of the estimate from 35% to 21%).

As stated in the Joint Statement and Update to Settlement Agreement, the 2005 NDCTP Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest pursuant to Rule 51 of the Commission's Rules of Practice and Procedure and meets the criteria set forth in San Diego Gas & Electric (D.92-12-019), 46 CPUC 2d 538 (1992). Despite debating the issue of the appropriate estimate for LLRW burial costs, Fielder does not state anywhere in his Opening Brief that he objects to the Settlement Agreement in

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[8] 2005 NDCTP Settlement Agreement, Section 4.1.1.1 (for SCE) and 4.1.2.1 (for SDG&E).

SCE/SDG&E's 2005 NDCTP; nor did any other party or intervenor object to the Settlement Agreement. Therefore, the Settlement Agreement, including the decommissioning cost estimates for SONGS 1 Remaining Work, SONGS 2&3, and Palo Verde, should be adopted in its entirety.

IV.

CONCLUSION

Based on the foregoing, the Commission should:

1. Recognize the unique standard of review that is applicable to SONGS 1 decommissioning work; and

2. Adopt the Settlement Agreement in its entirety, including the proposed contribution amounts and revenue requirement amounts, and the SONGS 1 Remaining Work, SONGS 2&3, and Palo Verde decommissioning cost estimates, as reasonable.

Respectfully submitted,

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July 14, 2006

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of ***JOINT REPLY BRIEF OF SCE AND SDG&E*** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

> Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this 14th **day of July, 2006**, at Rosemead, California.

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